

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

ORDER

This matter comes before the Court on Defendant Archstone Smith Community, LLC's (Archstone) Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b) (6). Plaintiff alleges that he was injured on February 23, 2004, while making a delivery to 5275 Leesburg Pike, Falls Church, Virginia (the Property). Specifically, Plaintiff alleges that when he tried to use an elevator at the Property, the elevator suddenly fell several floors, injuring Plaintiff. Plaintiff further alleges that Archstone, the purported manager of the Property, is responsible for Plaintiff's injuries due to its negligent maintenance of the elevator.

Archstone, however, argues that it is not the manager of the Property and has no interest, legal or otherwise, in the Property. Archstone has presented the Court with a copy of the deed to the Property, which shows that CESC Seven Skyline Place,

LLC has owned the Property since 1998. In addition, Archstone has presented the Court with a Declaration from its Claims Manager that it has never had any legal interest in the Property and has no interest in CESC Seven Skyline Place, LLC. Plaintiff has failed to challenge the proffered evidence or oppose Archstone's Motion to Dismiss. Therefore, it appearing to the Court that Archstone has no legal interest in the Property, it is hereby ORDERED that Defendant Archstone's Motion to Dismiss is GRANTED.

/s/

CLAUDE M. HILTON
UNITED STATES DISTRICT JUDGE

Alexandria, Virginia
April 21, 2006